IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 33 of 1999

Between:

Md.Ahmad Ali, S/o Mukhtar Ali, R/o Manneguda Village,

Pudur Mandal, Ranga Reddy District.

..... PETITIONER

AND

1. The Mandal Revenue Officer, Pudur Mandal, Ranga Reddy District.
2. The Revenue Divisional Officer, Vikarabad, Ranga Reddy District.
3. The District Collector, Ranga Reddy District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate declaring the action of respondent No.1 in issuing impugned notice dated 15.12.1998 in proceedings No.B/4384/98 purported to be under Rule 3 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 as illegal, without jurisdiction, arbitrary and unconstitutional.

Counsel for the Petitioner: MR.A.V.KRISHNA REDDY
Counsel for the Respondents: GP FOR ASSIGNMENT

The Court made the following :

ORDER:

The petitioner is a resident of Manneguda village. He was allegedly assigned an extent of Acs.5.00 of land comprising in Survey No.51/10 of the said village. He claims to have invested huge funds and dug a borewell and cultivating the lands since then. The first respondent herein issued show cause notice dated 15.12.1998 to the petitioner purporting to be under Section 3 of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (hereafter called the Act) calling upon to show cause why he should not be evicted for the reason that the assignment was made in contravention of sub-section (2) of Section 3 of the Act. Assailing the same, the petitioner filed the present writ petition. This Court admitted the writ petition on 05.01.1999 and passed interim orders on the same day in W.P.M.P.No.33 of 1999 staying all further proceedings.

The first respondent passed orders purporting to be under Section 3 of the Act vide proceedings No.B/4384/98 dated 16.01.1999 ordering to evict the petitioner from the assigned land on the ground that the petitioner is not in possession of the said land and he is not cultivating the said land. Therefore, the petitioner moved a miscellaneous application being W.P.M.P.No.12717 of 2004 praying this Court to permit him to amend the prayer so as to challenge the orders of the first respondent dated 16.01.1999. This application is also posted along with the writ petition. The said application was ordered permitting amendment of prayer.

The respondents have not filed any counter affidavit. However, the learned Assistant Government Pleader for Assignment submits that the possession was taken by the Mandal Revenue Officer on 16.01.1999, which is disputed by the learned counsel for the petitioner. Be that as it is, learned counsel for the petitioner Sri A.V.Krishna Reddy submits that the provisions of Section 3 of the Act are not attracted, as there is no transfer of the land by the petitioner in favour of anybody. He also disputes the allegation made in the show cause notice as well as impugned order that the petitioner is not cultivating the land and he is not in possession of the said land. He, however, does not deny that against any order passed under the provisions of the Act, an appeal would lie to the Revenue Divisional Officer under Section 4-A of the Act.

The questions involved are essential questions of facts, which are to be necessarily decided after conducting enquiry. It is also permissible to the Revenue Divisional

Officer to consider the questions raised by the petitioner that the Act has any application and he has any jurisdiction. Therefore, giving liberty to the petitioner to raise all these grounds before the Revenue Divisional Officer, the writ petition is disposed of with a liberty to the petitioner to file an appeal within two weeks from the date of receipt of the copy of this order and the Revenue Divisional Officer having jurisdiction shall dispose of the appeal within a period of eight weeks thereafter. If the petitioner is still in possession as on today, there shall be status quo.

The writ petition, with the above observations, is disposed of.

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(V.V.S.RAO,J)

21.07.2004

pln

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Mandal Revenue Officer, Pudur Mandal, Ranga Reddy District.
2. The Revenue Divisional Officer, Vikarabad, Ranga Reddy District.
3. The District Collector, Ranga Reddy District.
4. 2 CCs to the G.P.for Revenue (Assignment), High Court Buidlings, Hyderabad (OUT).
5. 2 CD copies.